

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES DONALD EBERHARDT,

Defendant.

4:15-CR-3080

PRELIMINARY ORDER OF
FORFEITURE

This matter is before the Court on the plaintiff's Motion for Preliminary Order of Forfeiture (filing [35](#)). Count II of the indictment in this case (filing [1](#)) charged the defendant with knowingly possessing or attempting to possess one or more items which contained visual depictions of minors engaged in sexually explicit conduct, in violation of [18 U.S.C. § 2252\(a\)\(4\)\(B\)](#). The indictment also contained a forfeiture allegation seeking the forfeiture, pursuant to [18 U.S.C. § 2253](#), of:

1. LG Tracfone and charger, serial #904CYEA0968724;
2. LG cell phone and charger, serial #106CYBD0597453;
3. Two (2) DVDs entitled "RussianBare.com";
4. Samsung model SCH-A570, serial #02802742096 cell phone;
5. Nokia model 2285 cell phone, serial #03815916187; and
6. E-Machines tower model EL1300G, serial #PTNAR0019180219D9000,

(the "Subject Property"), on the basis that it was used or was intended to be used to facilitate the violation alleged in Count II. Filing [1](#).

The defendant has pleaded guilty to Count II of the indictment and admitted the forfeiture allegation. Filing [36](#) at 20–21. By virtue of pleading guilty to the charge and admitting the forfeiture allegation, the defendant has forfeited his interest in the Subject Property, and the plaintiff should be entitled to possession of the property pursuant to [18 U.S.C. § 2253](#). Therefore, the plaintiff's Motion for Preliminary Order of Forfeiture is granted.

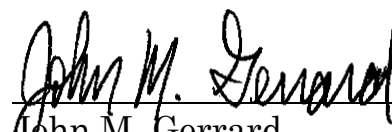
IT IS ORDERED:

1. The plaintiff's Motion for Preliminary Order of Forfeiture (filing [35](#)) is granted.

2. Based upon the defendant's guilty plea and admission of the forfeiture allegation of the indictment, the plaintiff is authorized to seize the Subject Property described above.
3. The defendant's interest in the Subject Property is forfeited to the plaintiff for disposition in accordance with law, subject to the provisions of [18 U.S.C. § 2253](#) (incorporating certain provisions of [21 U.S.C. § 853](#)).
4. The Subject Property is to be held by the plaintiff in its secure custody and control.
5. Pursuant to [21 U.S.C. § 853\(n\)\(1\)](#), the plaintiff shall publish for at least 30 consecutive days on an official Internet government forfeiture site (www.forfeiture.gov) notice of this order, notice of publication evidencing the plaintiff's intent to dispose of the property in such manner as the Attorney General may direct, and notice that any person, other than the defendant, having or claiming a legal interest in the property must file a petition with the Court within 30 days of the final publication of notice or of receipt of actual notice, whichever is earlier.
6. Such published notice shall state that the petition referred to in paragraph 5, above, shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title, or interest in the property and any additional facts supporting the petitioner's claim and relief sought.
7. The plaintiff may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property as a substitute for published notice as to those persons so notified.
8. Upon adjudication of all third-party interests, this Court will enter a final order of forfeiture pursuant to [21 U.S.C. § 853\(n\)](#), in which all interests will be addressed.

Dated this 11th day of December, 2015.

BY THE COURT:

A handwritten signature in black ink, reading "John M. Gerrard", written over a horizontal line.

John M. Gerrard
United States District Judge